

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

|                       |   |                            |
|-----------------------|---|----------------------------|
| ROBERT L. CLARK       | § |                            |
| v.                    | § | CIVIL ACTION NO. 6:07cv212 |
| CITY OF TYLER, ET AL. | § |                            |

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING ORDER OF REMAND

The Plaintiff Robert L. Clark, proceeding *pro se*, filed this lawsuit in state court complaining of alleged violations of his rights. The lawsuit was removed to federal court, and this Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On July 3, 2007, counsel representing the Defendants Texas Board of Pardons and Paroles, Morgan Summers, Rachelle Hartgrave, and Robin Maley, filed a notice stating that they did not consent to the removal of the lawsuit. On July 9, 2007, the Magistrate Judge issued a Report recommending that the case be remanded to state court, inasmuch as all defendants must consent to removal. Getty Oil Corp. v. Insurance Co. of North America, 841 F.2d 1254, 1263-64 (5th Cir. 1988); *see also* 28 U.S.C. §1448 (permitting defendants served after removal to seek remand to state court).

Copies of this Report have been sent to the parties, but no objections have been received; accordingly, they are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the

district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and the Report of the Magistrate Judge and has determined that this Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above styled civil action be and hereby is REMANDED to the 241st Judicial District Court of Smith County, Texas, for such other and further proceedings as that Court may deem appropriate, including the disposition of motions which the parties may have filed. 28 U.S.C. §1447(c).

**SIGNED this 29th day of August, 2007.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE